

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

SHARISTA GILES,)
)
Plaintiff,)
)
v.) No. 3:12-CV-645-TAV-CCS
)
)
HOMETOWN FOLKS, LLC, and JEFF BEALER,)
)
Defendants.)

MEMORANDUM AND ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and Standing Order 13-02.

On April 15, 2013, the Court entered a stay in this case pending completion of a criminal trial in state court related to the allegations presented in the Complaint. [Doc. 12]. On October 18, 2013, the parties appeared before the undersigned to address the status of this case and the criminal case. The Court conducted a second status conference on December 18, 2013. At that time, the parties represented to the Court that the criminal trial was set for April 28, 2014. Based upon this trial date, the Court set the next status conference for May 6, 2014, and advised the parties that they should be prepared to set a trial at that time.

On May 6, 2014, the parties appeared before the undersigned to address the status of this case. Counsel for the Plaintiff advised that he has gathered much of his evidence for trial, and that, though he wanted to take Mr. Bealer's deposition, he was prepared to move forward with a trial as soon as possible. Counsel for Mr. Bealer advised that the criminal case has been reset for trial on August 28, 2014, and he moved the Court to stay discovery until at least that time to

prevent Mr. Bealer from sitting for a deposition in which he would almost certainly invoke his right against self-incrimination. Counsel for Hometown Folks, LLC was amenable to lifting the stay. However, he objected to the trial of this matter being set later this year and asked that the Court set the trial in early 2014.

As stated at the hearing, this Court has made a reasonable accommodation to potentially allow the criminal case in state court to be resolved prior to this civil case proceeding to trial. However, this case is now eighteen months old. The parties have not had their Rule 26(f) conference, they have not commenced discovery, and they have not engaged in motion practice. If the Court were to delay setting a trial in this matter, doing so would likely result in witness's memories fading and the Plaintiff being denied timely justice. Accordingly, this Court can no longer defer to the state court's schedule.

Thus, for the reasons more fully stated at the hearing, the stay in this case is **LIFTED**, with one exception: discovery on Mr. Bealer is **STAYED** until **September 1, 2014**, to allow the criminal case to potentially be resolved. However, as of September 1, 2014, the parties may serve discovery upon Mr. Bealer and/or notice him for a deposition. They may do so regardless of whether the criminal case in the state court has been resolved.

The parties agreed to a trial setting of January 12, 2015, and the undersigned has advised the Chief District Judge's chambers of the same. A Scheduling Order will be entered in this case, and the parties are **ADMONISHED** to comply with the deadlines contained in the Scheduling Order or risk imposition of sanctions pursuant to Fed. R. Civ. P. 37. Consistent with the Court's statements at the hearing, the parties are further **ADMONISHED** that, given the age of this case, they are work diligently to prepare this case for trial. To that end, the parties are

ORDERED to complete their Rule 26(f) conference and to agree upon a schedule for their depositions as soon as practicable.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge